

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF PLANNING SERVICES SCRUTINY STANDING PANEL
HELD ON TUESDAY, 12 JUNE 2012
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.35 - 9.00 PM**

Members Present: J Wyatt (Chairman), P Keska (Vice-Chairman), K Angold-Stephens, G Chambers, Ms H Kane, Mrs C Pond, B Sandler and J M Whitehouse

Other members present: Mrs J H Whitehouse and R Bassett

Apologies for Absence: A Boyce, K Chana and Mrs R Gadsby

Officers Present J Preston (Director of Planning and Economic Development), N Richardson (Assistant Director (Development Control)) and M Jenkins (Democratic Services Assistant)

1. ELECTION OF CHAIRMAN AND APPOINTMENT OF VICE-CHAIRMAN

The Panel was asked to note the new Chairman and Vice Chairman of the Panel, Councillors J Wyatt and P Keska respectively, as at the Overview and Scrutiny Committee on 7 June 2012.

RESOLVED:

That Councillors J Wyatt and P Keska be noted as the new Chairman and Vice Chairman of the Constitution and Member Services Scrutiny Standing Panel respectively.

2. SUBSTITUTE MEMBERS

It was noted that Councillor Mrs J Whitehouse was substituting for Councillor J Whitehouse. However, during the course of the meeting Councillor J Whitehouse arrived at the meeting.

3. DECLARATIONS OF INTEREST

There were no declarations of interest made pursuant to the Member's Code of Conduct.

4. NOTES FROM THE LAST MEETING

RESOLVED:

That the notes of the Panel meeting held on 24 April 2012 be agreed, subject to the following amendments:

Item 52 Terms of Reference. "Officers were on schedule for completing the plan by August 2012" be amended to "Officers were on schedule for completing the plan by August 2013."

5. TERMS OF REFERENCE

The Panel were updated on the Terms of Reference. The Director of Planning and Economic Development advised that the Terms of Reference had undergone various amendments to make it akin to other standing panel terms of reference.

RESOLVED:

That the Panel's Terms of Reference be noted.

6. WORK PROGRAMME

The Director of Planning and Economic Development advised the Panel on developments within the Work Programme.

Item 3 of the Work Programme, To Monitor and Receive reports/Updates on the Delivery of the Local Plan.

Officers were making progress on the Local Plan, there was a roadshow scheduled for September 2012. The Planning Portfolio Holder advised that the process was open to the public and needed their input, adding that the local press should be informed of this as well. It was suggested that a free newspaper in Ongar, delivered to every house in the area, could be approached for publicity for the consultation. The Planning Portfolio Holder suggested that the Public Relations and Marketing Officer should be informed.

Item 6 Updates on Meetings of the Chairman and Vice Chairman of Area Plans and District Development Control Committee.

It was advised that this committee had not met for a year.

The Planning Portfolio Holder advised that with new members on the District Council, there were new training opportunities for members on planning related issues. He suggested that training was required on the National Planning Policy Framework and Gypsy and Traveller Sites, in particular equality issues. The Assistant Director of Planning and Economic Development (Development Control), advised that a separate training session would be needed for these presentations. It was felt that September 2012 would be a good time to schedule this.

RESOLVED:

That the Director of Planning and Economic Development and the Assistant Director of Planning and Economic Development (Development Control), source dates for training in September 2012.

7. PROBITY IN PLANNING OCTOBER 2011 - MARCH 2012

The Panel received a report regarding Probity in Planning – Appeal Decisions October 2011 – March 2012.

In compliance with the recommendation of the District Auditor, the report was designed to advise the decision making committees of the results of all successful appeals, in particular those refused by committee contrary to officer recommendation. The purpose being to inform the committee of the consequences of their decisions in this respect and, in cases where the refusal was found to be

unsupportable on planning grounds, an award of costs could be made against the Council.

Since 2011/12, there had been two local indicators, one which measured all planning application type appeals as a result of committee reversals of officer recommendations (KPI 55) and the other which measured the performance of officer recommendations and delegated decisions (KPI 54).

Over the six month period between October and March 2012, the Council received 51 decisions on appeals (44 of which were planning related appeals, the other 7 were enforcement related). Out of this 44, 11 were allowed (25%). For the year end, both targets for KPI 54 and KPI 55 had been achieved. However, between October 2011 and March 2012 in respect of KPI 54 6 out of 35 were allowed (17%) and for KPI 55, 5 out of 9 were allowed (55%).

Out of the 9 planning appeals that arose from decisions of the committees to refuse contrary to the recommendation put to them by officers during the 6 month period, the Council was not successful in sustaining the committees' objection in 5 cases. Two each for Plans South and East, and one for Plans West. Therefore the committees were urged to continue to heed the advice that if considering setting aside the officer's recommendation. Out of 7 enforcement notice appeals decided, one was allowed and one part allowed/part dismissed, although in the latter case the greater part of the appeal was dismissed. During this period, there was one successful finalised award of costs made against the Council.

The Planning Inspectorate's quashing of an enforcement appeal resulted in an award of costs of £2,200 against the Council in respect of Plots 40-41 Roydon Lodge Chalet Estate, Roydon, after failing to follow the appeal procedure. The enforcement notice was withdrawn after receipt and grant of an application for a certificate of law development because the alleged use was proven to be time immune. The Planning Inspector considered the appeal could have been avoided by more diligent investigation by the Council and awarded costs because the appellant had already incurred costs in preparatory for the appeal.

Whilst performance in defending appeals had improved, particularly in respect of committee reversals, members were reminded that in refusing planning permission there needed to be justified reasons that in each case, must be relevant, necessary, but also sound and defensible.

The Panel were advised that the Probity in Planning reports had been submitted to the Area Planning Sub-Committees every 6 months for their perusal. At the December 2011 meeting of this Panel, the members and the then Planning Portfolio Holder, supported a change to this arrangement. In future the reports would be submitted to the Panel every six months, the Panel would then refer these to the Area Plans Sub-Committees annually. However it was felt that the previous arrangement should be re-adopted. Members suggested that when the Probity in Planning report was submitted to the Planning Sub-Committees, there should be an informal private training session immediately after the meeting, in private, with a particular emphasis on appeals allowed where the committee had supported refusing the application.

RESOLVED:

- (1) That the Probity in Planning report for the period October 2011 to March 2012 be noted; and

- (2) That Probity in Planning reports be submitted to the Area Plans Sub-Committees on a six monthly basis and that they be discussed as an informal private training item on the Area Plans Sub-Committee agenda following the meeting's closure.

8. SECTION 106 AGREEMENTS

The Panel received a report regarding Planning Obligations and Section 106 Agreements April 2011 to March 2012.

At the Panel meeting on 20 December 2011, members requested an annual report on planning obligations showing where money had been raised and spent. Section 106 of the Town and Country Planning Act 1990 allowed a local planning authority to enter into a legally binding agreement or planning obligation with a land owner/developer over a related issue.

Section 106 Agreements acted as an instrument for placing restrictions on developers, requiring them to minimise the impact of their development on the local community and carry out tasks providing community benefits. Such conditions were often sought when planning conditions were inappropriate and ensured the quality of development and enabled proposals to take place in a sustainable manner. The applications were not finally dealt with until the associated agreement was completed, this approach meant that major applications were exceeding the Government's targets for determination. Therefore, the District Council was encouraging the submission of Unilateral Undertakings with the application.

Performance for the Year 2010/11

The S106 benefits negotiated through the year 201/11 and concluded between April 2011 and March 2012 totalled £1,296,650 received into the public purse. Benefits actually realised through the same year had provided a total of £411,574 received into the public purse which included 35 affordable housing units.

The Future

The use of Section 106 Agreements was overshadowed by the emergence of the Community Infrastructure Levy (CIL), which was a tax on developers' profit and would replace much of the traditional S106 benefits. From April 2014, it would not be possible to use S106 agreements for delivery of such infrastructure items.

The adoption of the CIL required an up to date development plan and adoption after consultation and examination, before such a levy could be adopted and payment received. Monies raised under CIL could only be spent on infrastructure.

The Panel was advised about the impact of the CIL on the Local Plan. When setting growth for the next 20 years, the Council would need to consider the infrastructure necessary to accompany the developments. In the Local Plan this assessment would form the Infrastructure Delivery Plan (IDP). Once infrastructure needs were identified, all of the existing revenue streams must be reviewed. Once the assessment was carried out, the gap between the cost of future development infrastructure needs and what was already being provided could be identified.

There was concern that S106 monies had been spent on facilities which were not needed locally, it was felt that public consultation would be required. Officers advised

that these agreements may have been outdated by local changes since the time of the decision made.

RESOLVED:

That the report regarding Section 106 Agreements be noted.

9. ANY OTHER BUSINESS

There was concern expressed about the growing number of heavily gated properties in the district. It was thought that large gates inhibited community cohesion. The Assistant Director of Planning and Economic Development (Development Control) advised that he was not aware of this as an issue. However conditions on planning applications involving gates and fences were usually submitted in writing, to the directorate. He advised that this would be discussed with planning officers. It was suggested that in future, ward members and emergency services should be consulted on gated frontages.

RESOLVED:

That the Assistant Director of Planning and Economic Development (Development Control) consult with officers on scrutinising gated properties.

10. DATES OF FUTURE MEETINGS

The next programmed meeting of the Panel would be held on Tuesday 11 September 2012 at 7.30p.m. in Committee Room 1, and then on the following dates:

- (a) Tuesday 11 December 2011 at 7.30p.m.; and
- (b) Tuesday 16 April 2013 at 7.30p.m.